

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

KIMBERLY BEEN,

Plaintiff,

v.

No. 6:09-CV-00726 MV/WDS

**NEW MEXICO DEPARTMENT OF INFORMATION
TECHNOLOGY (“DoIT”), PEARL RUDOLPH,
Individually, as Human Resources Bureau Chief for DoIT,
ELISA STORIE, Individually, as Deputy Cabinet Secretary for
DoIT, and MICHAEL MARTINEZ, Individually, as CNA
Division Director for DoIT,**

Defendants.

MINUTE ORDER

The Court has completed its *in camera* review of the documents submitted by Defendant in connection with Plaintiff’s Interrogatory No. 12. The documents reflect three requests for leave under FMLA, each of which was approved. The effective dates for the leave requests were July 19, 2007; January 15, 2008; and October 26, 2009. All three applicants appear to have been considered at all times to be permanent employees. Defense counsel is instructed to notify the Court if this is *not* the case.

The Court has reviewed Plaintiff’s complaint and Defendant’s answer, and the issue in this case appears to be whether Plaintiff was rightly or wrongly classified as a probationary rather than permanent employee in the summer of 2007, and the impact that her probationary classification had on: 1) her request for leave under FMLA and 2) the manner in which she was terminated for purported “job abandonment.” The Court finds that the privacy interests of the three employees

referenced above outweigh the probative value of the documents produced for *in camera* review.

Accordingly, the Court will not order production of the documents.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'W.D. Schneider', written over a horizontal line.

W. DANIEL SCHNEIDER
UNITED STATES MAGISTRATE JUDGE